IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 1328 of 2005

Between:

K. Bhaskara Rao, S/o. Late Sri Pullayya,
Moripolam, H/o. Aadurru, Mamidikuduru Mandal,
E.G. District.

..... PETITIONER

AND

1. The District Collector, East Godavari District, kakinada.
2. The Revenue Divisional Officer, Amalapuram, E.G.district.
3. The Mandal Revenue Officer, Mamidikuduru Mandal, E.G.district.
4. The A.P. State Pollution Control Board, rep. by its Secretary, Matrivanam, Ameerpet, Hyderabad.
5. Sri Vardhineedi Krishna Murthy, S/o. Sri Venkanna, Magatapalli, Mamidikuduru Mandal, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a Writ, Order or direction more particularly one in the nature of *Writ of Mandamus* declaring the inaction of the respondents 1 to 4 as illegal, unjust, arbitrary and also declare that the action of the 5th respondent in converting the land of an extent of Ac.0.40 cents adjacent to the petitioners land in Sy.No.328 and 297/3, Aadurru Village, mamidikuduru Mandal, East Godavari District is illegal, unlawful, contrary to the judgment of the Hon'ble Supreme Court and the Environment (Protection) Act.

Counsel for the Petitioner: MR.A.VEERASWAMY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

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THE HONOURABLE MS. JUSTICE G. ROHINI

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WRIT PETITION No.1328 of 2005

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ORDER:

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This writ petition is filed aggrieved by the alleged inaction on the part of the respondents 1 to 4 in initiating action against the 5th respondent who allegedly converted the land admeasuring of Ac.0.40cents into a prawn tank adjacent to the petitioner's land in Sy. No.328 and 297/3, Aadurru Village, Mamidikuduru Mandal, East Godavari District.

In the affidavit filed in support of the writ petition, it is stated that the petitioner is the owner of the land to an extent of Ac.2.73 cents of Coconut garden in Sy.No.328 in Aadurru village, Mamidikuduri Mandal apart from other agricultural lands abutting the Coconut garden in Sy.No.297/3. It is stated that on the northern boundary of his lands, the 5th respondent owns a small extent of Ac.0.40 cents of agricultural wet land. There is a bund of considerable width in between their lands upon which some Coconut trees are existing. It is alleged that out of Ac.0.40cents, the 5th respondent has converted a small extent into a prawn tank for prawn culture. For the purpose of carrying out his prawn culture operations, the 5th respondent is drawing salty and saline water from the nearby rivulet by using pump sets. It is alleged that as a result, the wet lands

as well as the Coconut garden in the surrounding area are being damaged due to salinity. Therefore, the petitioner made a representation dated 15.12.2003 to the respondents 2 and 3 requesting them to take appropriate action. However, there was no response. It is further alleged that recently the 5th respondent has cut and removed some of the coconut trees on his bund as they were totally damaged due to the salinity and that the petitioner's coconut trees along the border have also been damaged to a considerable extent. The petitioner states that though he has been making repeated requests, the respondents failed to take any action, and therefore he is constrained to file this writ petition seeking the above relief.

Even according to the version of the petitioner, he made a representation long back on 15.12.2003 to the Mandal Revenue Officer, Mamidikuduru Mandal, East Godavari District marking a copy to the Revenue Divisional Officer, Amalapuram requesting him to take necessary action against the 5th respondent. However, nothing has been placed before this court to show that the said representation was actually received in the office of the respondents 2 and 3. At any rate, the learned Government Pleader for Revenue appearing for the respondents 1 to 4 states that the 1st respondent – District Collector is the competent authority to enquire into the allegations and therefore it would be appropriate to make a fresh representation before the 1st respondent.

Having regard to the facts and circumstances of the case, without expressing any opinion as to the correctness of the allegations made by the petitioner, the Writ Petition is disposed of granting liberty to the petitioner to make a fresh representation before the 1st respondent furnishing the details of the alleged activities being carried on by the 5th respondent, within a period of two weeks from today, in which event, the first respondent as well as the 3rd respondent shall consider the same and take appropriate action in accordance with law in the light of the guidelines laid down by the Supreme Court in **S. Jagannath v. Union of India and others,** within a period of two weeks thereafter affording due opportunity to the 5th respondent to explain the allegations made by the

petitioner.

Accordingly, the writ petition is disposed of. No costs.

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(G. ROHINI,J)

Date:02.02.2005

Ksn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, East Godavari District, kakinada.
2. The Revenue Divisional Officer, Amalapuram, E.G.district.
3. The Mandal Revenue Officer, Mamidikuduru Mandal, E.G.district.
4. The A.P. State Pollution Control Board, rep. by its Secretary, Matrivanam, Ameerpet, Hyderabad.
5. Two C. Cs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
6. 2 CD copies

*Form-NIC-OGS/WP{**JGK**}*